



DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY

MINUTES OF THE DECEMBER 8, 2011 GENERAL MEETING

1. Call to Order

Chairman MacKay called the General Session to order at approximately 9:35a.m.

2. Roll Call

Present in Las Vegas: Commissioner Michael J. Kloberdanz, Commissioner Monica B Metz, Administrative Attorney James Day, Financial Analyst Yvonne Shelton, Financial Analyst Lidia Aronova, Compliance Audit Investigator John Datian (on behalf of Chief of Enforcement Michael Bradford), and Senior Deputy Attorney General David Newton. Present in Reno: Chairman Andrew J. MacKay and Deputy Commissioner Marilyn Skibinski.

3. Pledge of Allegiance

Compliance Audit Investigator John Datian led a recital of the Pledge.

4. Public Comment:

Mr. Jeff Sawin of Private Property Protection Association (PPPA) addressed Item #16 regarding the legality of "booting" vehicles. The PPPA objects to the release of the opinion based on the lack of public discussion and the Authority's lack of jurisdiction in the matter.

5. Approval of Agenda

Administrative Attorney James Day requested that Item 27 be amended with notation AJM to be stricken, that Items 37 and 40 be addressed in a single order, and that Items 50 and 57 be removed and placed on the January Agenda. Commissioner Kloberdanz requested Item 32 be pulled for discussion.
Approved 3-0.

6. Approval of the Minutes of the October 27, 2011 Agenda Meeting

Approved 3-0.

7. Briefings from the Commissioners

Commissioner Metz indicated that letters have gone out regarding the Model Tow Tariff and conversions will be handled as they come in to the Authority. Chairman MacKay congratulated Amador Stage Lines for being honored for their environmental efforts by the South Shore Chamber of Commerce and the Lake Tahoe Visitors Authority. Chairman MacKay also wished staff and carriers a Merry Christmas and Happy New Year.

8. Briefing from the Deputy Commissioner

None.

9. Report of Legal Counsel

Senior Deputy Attorney General Newton reported that the judge in the Omni/Ambassador matter denied the Motion to Alter or Amend and the Authority will need to take action in January. The Handicab matter has been sent to the Nevada Supreme Court, there is a settlement conference set for January 27, 2012, and a representative from each entity is requested to appear. He also reported that the City of North Las Vegas told him they issued an amendment to their tow contracts removing the \$10.00 fee and the amendments will be signed by the tow companies in the near future.

Applications for Fully Regulated Carriers

10. Docket No. 10-12004 The Application of Sunshine Movers, LLC d/b/a Sunshine Movers for an expansion of operating authority granted under Certificate of Public Convenience and Necessity (hereinafter "CPCN") 3353. Staff investigation concluded. (AJM)

Danny Ives was present on behalf of Sunshine Movers. Chairman MacKay summarized the Application and recommended approval. Approved 3-0.

11. Docket No. 11-02021 The Application of Desert Sky, Inc. for an expansion of operating authority granted under Contract Carrier Permit MV 6138, Sub 1. Staff investigation concluded. (AJM)

Brian Boggess, Esq., was present on behalf of Desert Sky, Inc. Chairman MacKay summarized the Application and recommended approval. Approved 3-0.

12. Docket No. 11-04002 The Application of Trade Show Services, LTD d/b/a Pro-Tect Security for a contract carrier's permit to provide prisoner transportation services pursuant to a contract with the State of Nevada. Applicant's Petition to extend the interim/temporary approval of their Application, granted under Permit MV 6147, due to exigent circumstances. Staff investigation concluded.

Garrett Gordon, Esq., Steve Sammut, and Leslie Bruno were present on behalf of Pro-Tect Security. Chairman MacKay summarized the Application and recommended approval. Approved 3-0.

13. Docket No. 11-08003 The Joint Application of Robert T. Carney d/b/a Carney's Full Service Movers to sell and transfer and of Carney's Full Service Movers, Inc. to purchase and acquire the authority to provide the transportation of household goods granted under CPCN 3258, Sub1. Staff investigation concluded. (AJM)

Robert Carney was present on behalf of Carney's Full Service Movers. Chairman MacKay summarized the Application and recommended approval. Commissioner Metz requested a time clock be added to the Compliance Order. A discussion ensued as to the method currently being used and the pros and cons of time clock use. Approved 3-0 as submitted.

14. Docket No. 11-08024 The Joint Application of James Jimmerson to sell and transfer and of Carol Jimmerson to purchase and acquire 51% of Jacob Transportation Services, LLC, d/b/a Executive Las Vegas, a carrier authorized to provide airport transfer, special services, charter limousine and charter bus service granted under CPCN's 1062, Sub 6 and 2127. Staff investigation concluded. (AJM)

James Jimmerson, Esq., was present on behalf of Jacob Transportation Services. Chairman MacKay summarized the Application and recommended approval. Approved 3-0.

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Financial Rates and Tariffs

- 15. Docket No. 11-10018** The Application of Jacob Transportation Services, LLC d/b/a Executive Las Vegas for approval of a tariff rate modification for airport transfer service provided under CPCN 1062, Sub 6. Staff investigation concluded.

Financial Analyst Yvonne Shelton summarized the modification request and asked that Item B and C as listed in the proposed Order be postponed to the next month's Agenda as they require further research. Staff states a neutral position for Items D and E. Staff states there are no true comparables for non-stop rates or volume discounts. Staff stated a request was made regarding additional wording to indicate how the volume discount would be determined. James Jimmerson, Esq., was present on behalf of the Applicant. Mr. Jimmerson summarized the request before the Authority. Kimberly Maxson-Rushton, Esq., entered an oral protest on behalf of the Las Vegas Livery Operators Association. A discussion ensued between Commissioner Metz, Commissioner Kloberdanz, Ms. Rushton, Mr. Jimmerson, and Chairman MacKay with regard to compensable rates, the definition of the contracted volume discounts, and the exact charges being passed on to the customer. Senior Deputy Attorney General Newton suggested opening a docket to clarify the volume discount sub-tariff issue. A discussion ensued as to the published tariff rates, the actual rate being charged to the customer, the industry standard rates, and the definition of routes vs. rates. Commissioner Metz believed the tariff modification should be referred back to Staff for further research and amendments. Chairman MacKay moved to table the Boulder City, Henderson and Lake Las Vegas rates to a future general session, made a motion to approve a \$6.00 non-stop, one-way rate for transportation for any entity with an average of 1,500 to 8,999 passengers per month, between McCarran International Airport and any Las Vegas hotel on the Las Vegas Strip south of Sahara Boulevard, and to approve a \$7.75 non-stop, round trip rate for transportation for any entity with an average of 9,000 passengers or more per month, between McCarran International Airport and any Las Vegas hotel on the Las Vegas Strip south of Sahara Boulevard.

Approved as amended 2-1 with Commissioner Metz opposed.

Discussion Item

- 16.** Chairman Andrew J. MacKay requested an opinion from the Attorney General's Office regarding the legality of the "booting" of vehicles by private parties on private property. The Opinion Request specifically exempted from review those county or municipal entities which have specifically authorized booting and set up a regulatory structure to govern said activity. The Opinion Request asked four specific questions regarding the legality of private party booting of vehicles on private property in jurisdictions where county or municipal entities have not specifically authorized booting. The Authority will discuss whether to waive the confidential and privileged nature of the Attorney General Opinion recently issued in response to the Chairman's Request.

Chairman MacKay summarized the request and recognized Administrative Attorney Jim Day and Senior Deputy Attorney General David Newton for the work and research done on the opinion. Administrative Attorney Day noted that NRS 228.150 gives Chairman MacKay the authority to request an opinion from Attorney General Cortez-Masto, that the advice received is over her signature, and that the opinion reflects the Attorney General's concurrence that the Authority's request is directly related to the Nevada Transportation Authority. The Letter Opinion was received by Chairman MacKay and he has placed it on the Agenda for consideration to waive the confidential nature of the Opinion. Mr. Sawin vehemently stated his objection to the release of the opinion as the NTA has no regulatory authority in private party "bootings" and the release would influence and affect another business. Approved 3-0.

Letter Opinion will be made available upon request of any party.

Advisory Opinion

17. Docket No. 11-09033 At the Authority's September 15, 2011 general session, the Authority voted to issue an advisory opinion pursuant to NAC 706.4007 addressing the following question: May a carrier in its tariff include rates for services and/or types of equipment that the carrier does not in fact provide? The Authority will consider proposed language for such an opinion and may issue a final advisory opinion in this matter. (MBM)

Senior Deputy Attorney General Newton summarized the draft of the Advisory Opinion. Advisory Opinion language approved 3-0.

Petitions to Deviate from Regulations

18. Docket No. 11-10012 The Petition to Deviate from Regulations pursuant to NAC 706.1305 filed by Bell Trans, AWG Ambassador, LLC and CLS Nevada, LLC seeking Authority approval for the Petitioners to provide airport transfer services without displaying the signs required by NAC 706.228 as amended by LCB File No. R127-07. (MJK)

Kimberly Maxson-Rushton, Esq., was present on behalf of the Petitioners. Neal Tomlinson, Esq., was present on behalf of Las Vegas Limousines and Airline Limousine Corporation and orally presented a request for Joinder in the Petition. Ms. Rushton summarized the Petition. Lisa deMarigny, CEO, was present on behalf of Showtime Tours. A lengthy discussion ensued with regard to signage requirements for airport transfer providers. Motion to amend language to include all airport transfer providers, to approve the Petition to Deviate, and to include the regulation in the next rule-making session. Approved 3-0.

19. Docket No. 11-10013 The Petition to Deviate from Regulations pursuant to NAC 706.1305 filed by Ronald M. Perlman dba Reno-Tahoe Transportation (CPCN 2134) seeking Authority approval for the Petitioner to operate a vehicle originally manufactured with a capacity of fewer than 16 passengers as a bus, thereby requiring deviation from NAC 706.022. (AJM)

Taken out of order – following Item 15. Ronald Perlman was present on behalf of Reno-Tahoe Transportation. Mr. Perlman summarized the Petition. Commissioner Metz explained the history and rationale for the definition of charter bus excluding the vehicle type at issue. Denied 3-0.

Applications for Certificates of Public Convenience and Necessity to Provide Charter Bus Service

20. Docket No. 11-07005 The Joint Application of the Haggerty Family Trust to sell and transfer and of Century Park Capital Partners II, L.P. to purchase and acquire 100% of the common stock of Ryan's Holdings, Inc., the sole owner of Ryan's Express Transportation Services, Inc. d/b/a Ryan's Express, a carrier authorized to provide charter bus service in the State of Nevada under CPCN 3240, Sub1. Staff investigation concluded.

Patrick Fagan, Esq., was present on behalf of the Applicants and summarized the Application. A discussion ensued with regard to the use of a time clock vs. log sheets. Approved 3-0.

Applications for Certificates of Public Convenience and Necessity to Provide Tow Car Service

21. Docket No. 11-04018 The Application of Speedy Recovery, Inc. d/b/a SRI for a CPCN to provide tow car service by tow car within the State of Nevada. Staff investigation concluded.

Chairman MacKay summarized the Application and recommended approval. Commissioner Metz requested the time clock method of record keeping be included in the compliance order. Approved as amended 3-0.

22. Docket No. 11-09018 The Application of Theresa Carlson d/b/a Red Clover Towing for a CPCN to provide tow car service by tow car vehicle within the State of Nevada. Staff investigation concluded. *Chairman MacKay summarized the Application and recommended approval. Theresa Carlson was present on behalf of the Applicant. Commissioner Metz requested the time clock method of record keeping be included in the compliance order. Approved as amended 3-0.*

Voluntary Cancellations

23. Docket No. 11-11003 The voluntary cancellation by El Shadai's, Inc. of CPCN 2116. Staff investigation concluded.
Approved 3-0.

24. Docket No. 11-11014 The voluntary cancellation by Silver State Towing, Inc. d/b/a Silver State Towing of CPCN 7156, Sub 1. Staff investigation concluded.
Taken out of order – discussed with Item 32. Cancellation approved with the Authority to retain jurisdiction over any outstanding citations. Approved 3-0.

25. Docket No. 11-11020 The voluntary cancellation by Luxury Vegas Transportation d/b/a Luxury Vegas of CPCN 2104, Sub1. Staff investigation concluded.
Approved 3-0.

Administrative Citations and Impoundments

All Items in this section with the exception of Items 32, 50, 51, and 57 were considered collectively and approved 3-0.

26. Citation 14182 issued to James Shelton Dusty Raine for a violation of NRS 706.758. (AJM)

27. Citation 14220 issued to John H. King d/b/a Cal-Nevada Towing for four violations of NAC 706.247.

28. Citation 14486 issued to Edward Loudenclos d/b/a Sunset Limousine Services, LLC for violations of NRS 706.386 and NRS 706.758. (AJM)

29. Citation 14491 issued to MD Anwar Hossain for violations of NAC 706.376 and NAC 706.3753. (AJM)

30. Citation 14492 issued to Patrick Bryant for a violation of NAC 706 as amended by LCB File No. R127-07. (AJM)

31. Citation 14496 issued to Ashley's Towing for a violation of NRS 706.4477. (MJK)

32. Citations 15512, 15513 and 15514 issued to Silver State Towing, Inc. for violations of NAC 706.3975, NAC 706.420, NAC 706.427, NRS 706.4477 and NAC 706.430. The Hearing Officer determined that the Respondent failed to file a complaint response with the Staff of the Authority within the prescribed time. Therefore, pursuant to NAC 706.3975(4), the Staff has placed the matter before the Authority for a determination of probable cause. (MJK)

Commissioner Kloberdanz recommended that the Authority deem probable cause exists for the complaint. Approved 3-0.

33. Citation 15516 issued to Jeremy R. Keen for a violation of NAC 706.228 as amended by LCB File No. R127-07. (MJK)

34. Impound 1892 The impoundment pursuant to NRS 706.476 of a vehicle registered to Ki Joo Kim. (MJK)

35. Impound 1916 and Citation 15595 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15595 issued to Frank Didonato for violations of NRS 706.386 and NRS 706.758. (MJK)

36. Citation 14349 issued to Day & Night Towing, Inc. for violations of NAC 706.247/ 49 CFR 382.301 and NAC 706.430. (MBM)

37. Citation 14350 issued to Day & Night Towing, Inc. for 227 violations of NAC 706.420 and for 8 violations of NAC 706.432(1). (MBM)

Order reflects Items 37 and 40.

38. Citation 15482 issued to Alelegn Ketsela Alene for violations of NAC 706 as amended by LCB File No. R127-07(1) and NAC 706.228(3) as amended by LCB File No. R127-07. (MBM)

39. Citation 15500 issued to Edwin Jay Wright Jr. for violations of NAC 706 as amended by LCB File No. R127-07(1) and NAC 706.228(3) as amended by LCB File No. R127-07. (MBM)

40. Citation 15555 issued to Day & Night Towing, Inc. for two violations of NRS 706.4477(a) and for 81 violations of R 075-08 section 3. (MBM)

Order reflects Items 37 and 40.

41. Citation 15589 issued to Cornell Hamberlin for violations of NRS 706.386 and NRS 706.758. (MBM) -

42. Impound 1772 The impoundment pursuant to NRS 706.476 of a vehicle registered to Carlos Izaguirre. (MBM)

43. Impound 1766 The impoundment pursuant to NRS 706.476 of a vehicle registered to U-Haul of Arizona. (MBM)

44. Impound 1922 The impoundment pursuant to NRS 706.476 of a vehicle registered to Car 4 Less/Tony Canales. (MBM)

45. Impound 1938 The impoundment pursuant to NRS 706.476 of a vehicle registered to U-Haul of Arizona. (MBM)

46. Impound 1937 and Citation 15638 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15638 issued to Thomas Welsh for violations of NRS 706.386 and NRS 706.758. (MBM)

47. Impound 1939 and Citation 15639 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15639 issued to Michael Rizza for violations of NRS 706.386 and NRS 706.758. (MBM)

48. Impound 1740 and Citation 15615 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15615 issued to Jorge Rodriguez for violations of NRS 706.386 and NRS 706.758. (MBM)

49. Citation 14183 issued to Linda Rainwater-Bertinelli for a violation of NAC 706.376.

50. Citation 15473 issued to Yalem Gedion for a violation of NAC 706.228(3) as amended by LCB File No. R127-07(1).

Removed from agenda prior to consideration.

51. Citation 14490 issued to Filmone Tuavao for a violation of NAC 706.376.

Pulled for further discussion – Reject Settlement Agreement based on failure to consider prior violations. Citation hearing to be set with notice to the Respondent. Approved 3-0.

52. Citation 14488 issued to Ronald M. Perlman d/b/a Reno Tahoe Limousine for violation of NRS 706.386.

53. Citations 15491 and 15492 issued to Randy Joel White for violations of NAC 706.228 as amended by LCB File No. R127-07, NAC 706.228(3) and (4) as amended by LCB File No. R127-07, and NAC 706.3612.

54. Citation 14493 issued to Luis A. Perez-Lopez for a violation of NAC 706.376.

55. Citation 14494 issued to Joseph Eugene Rodriguez for a violation of NAC 706.228 as amended by LCB File No. R127-07.

56. Citation 15497 issued to Aman L. Andemariam for a violation of NAC 706.228 as amended by LCB File No. R127-07.

57. Citation 15517 and 15518 issued to Silver State Towing, Inc. for violations of NRS 706.4477, NAC 706.427, NAC 706.418 and NRS 706.398.

Removed from agenda prior to consideration.

58. Citation 15586 issued to Adib Jamil Eljaouhari for a violation of NAC 706.228 as amended by LCB File No. R127-07(4).

59. Citation 15591 issued to National Transportation Services, Inc. for violation of NAC 706.228(5).

60. Citation 15593 issued to Ashley's Towing for violations of NRS 706.4477.

61. Citation 15609 issued to Adib Jamil Eljaouhari for a violation of NAC 706.228 as amended by LCB File No. R127-07.

62. Citation 15596 issued to On Demand Sedan, Inc. for a violation of NAC 706.228 as amended by LCB R127-07.

63. Citations 15598 and 15610 issued to William Simon for a violation of NAC 706.228 as amended by LCB File No. R127-07.

- 64. Citation 15602** issued to Aaron Scott Thomas for a violation of NAC 706.228 as amended by LCB File No. R127-07(5).
- 65. Citation 15605** issued to Ritz Transportation, Inc. for a violation of NAC 706.228 as amended by LCB R127-07.
- 66. Citation 15608** issued to Nicholas Lash for a violation of NAC 706.228 as amended by LCB File No. R127-07.
- 67. Citation 15631** issued to Clonda Brittman for a violation of NAC 706.228 as amended by LCB File No. R127-07(8).

68. Public Comment

Michael Keller, on behalf of AAA, inquired as to the date that the City of North Las Vegas will cease charging the \$10.00 fee. Senior Deputy Attorney General Newton explained that section 14 would be removed from the contract language and referred Mr. Keller back to the City of North Las Vegas for an exact date. Mr. Keller asked when the model tow tariff conversions would be finished. Commissioner Metz indicated the Authority's April general session should be the final meeting to approve the conversions and that conversions from tow carriers are being processed as they are received. Finally, Mr. Keller requested clarification with regard to SB 142. Commissioner Metz stated that SB 142 would be added to the next Agenda meeting so that it can be discussed.

69. Adjournment

Meeting adjourned at 2:10p.m.